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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Summary of the high-level panel discussion on the question of the death penalty

Report of the United Nations High Commissioner for Human Rights

Summary

The present report is submitted pursuant to Human Rights Council decision 22/117. It provides a summary of the high-level discussion on the question of the death penalty held on 5 March 2014 at the twenty-fifth session of the Council. The aim of the panel discussion was (a) the exchange of views on advances, best practices and challenges relating to the abolition of the death penalty and to the introduction of a moratorium on executions and (b) the exchange of views relating to national debates on or processes for the abolition of the death penalty.

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I. Introduction

1. Pursuant to its decision 22/117, the Human Rights Council held a high-level panel discussion on the question of the death penalty on 5 March 2014, at its twenty-fifth session. The aim of the panel discussion was (a) the exchange of views on advances, best practices and challenges relating to the abolition of the death penalty and to the introduction of a moratorium on executions and (b) the exchange of views relating to national debates on or processes for the abolition of the death penalty.

2. The panel discussion was chaired by Baudelaire Ndong Ella, President of the Human Rights Council, and moderated by Nicolas Niemtchinow, Permanent Representative of France to the United Nations Office and other international organizations in Geneva. The Secretary-General of the United Nations sent a video message. The United Nations High Commissioner for Human Rights delivered an opening statement. The panellists were: Valentin Djenontin-Agossou, Minister of Justice, Human Rights and Legislation of Benin; Khadija Rouissi, Vice-President of the National Parliament of Morocco; Kirk Bloodsworth, Director of Advocacy, Witness to Innocence; and Asma Jahangir, Commissioner, International Commission against the Death Penalty, and former Special Rapporteur on extrajudicial, summary or arbitrary executions.

3. The present summary was prepared by the Office of the United Nations High Commissioner for Human Rights pursuant to Human Rights Council decision 22/117, in which the Council requested the Office to prepare a report on the panel discussion in the form of a summary.

II. Video message of the Secretary-General of the United Nations

4. In his video message, the Secretary-General said that, in 2007, the General Assembly had taken a significant step towards the abolition of capital punishment when it had called in resolution 62/149 for a worldwide moratorium on the death penalty. Since the adoption of that landmark resolution, the trend against capital punishment had become stronger and was evident in every region and across all legal systems, traditions and religions. Around 160 countries had either abolished the death penalty or no longer practised it.

5. The Secretary-General emphasized that the taking of life was too irreversible for one human being to inflict it on another. In countries that allowed capital punishment, there remained too many cases of people being put to death despite legitimate questions about their guilt, or in hasty circumstances in which international standards regarding due process were not adhered to. He also argued that the death penalty was unjust and incompatible with fundamental human rights.

6. The Secretary-General called on States that had not yet done so to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. It was his sincere hope to see many ratifications, as the international community would mark the Protocol's twenty-fifth anniversary at an event to be held in New York later in 2014.

III. Opening statement of the United Nations High Commissioner for Human Rights

7. In her opening statement, the United Nations High Commissioner for Human Rights declared that she opposed the death penalty in all circumstances, and urged those States that still retained that punishment to abolish it. The High Commissioner acknowledged the accelerating progress made towards abolition since the adoption in 1948 of the Universal Declaration of Human Rights, which had asserted the human right to life. She noted that back then, 66 years previously, only 14 countries had abolished the death penalty, the majority of them in South America. Eighteen years later, at the time of the adoption of the International Covenant on Civil and Political Rights in 1966, there had still only been 26 abolitionist countries. In the face of such resistance, the drafters of the Covenant had been able to do little more than restrict the scope of the death penalty. Nevertheless, that had not been meant to justify the continuing use of the death penalty. In that regard, she referred to article 6, paragraph 6, of the Covenant, which stated: "Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant." She also noted that the adoption of the Covenant's Second Optional Protocol in 1989 had given abolition a decisive new momentum. While welcoming the most recent moratoriums, the High Commissioner deplored the fact that approximately 20 States still continued to execute people, often in direct violation of international human rights standards.

8. The High Commissioner outlined several reasons why the death penalty should be abolished. First, the death penalty was not reconcilable with human rights, starting with the right to life. She pointed out that many countries whose people had been the victims of the most heinous crimes and violations had abolished the death penalty or did not use it. Those countries were pursuing justice but respected the right to life, a right that could not be negated by the thirst for vengeance. She also noted that the death penalty was cruel, inhumane and degrading, either per se or as applied. Furthermore, the application of the death penalty often violated the right to equality and non-discrimination. The decision whether to sentence a convict to death or to lesser punishment was often arbitrary, disproportionate and devoid of predictable rational criteria. In that "judicial lottery", the odds were often stacked against the poor and against minorities and other common targets of discrimination. The second reason why the death penalty should be abolished was its finality. Even the most developed, well-functioning and robust legal systems, and those with multiple judicial safeguards, had, in many instances, put to death individuals who subsequently had been proved to be innocent. A third strong reason for abolishing the death penalty was the lack of merit of the common assertion that it had a deterrent effect. There was no evidence that the death penalty deterred crime any more than other forms of punishment.

9. The abolition of the death penalty often came into effect after a period of difficult national debate. To make sure that such debates were effective, transparent and fully reflective of the collective will, it was vitally important that the public be provided with balanced information and accurate statistics that covered all aspects of the discussion on criminality and described various effective ways, short of the death sentence, to combat it. With regard to arguments that abolishing the death penalty would go against the sentiments of the public, the High Commissioner emphasized that human progress did not stand still, and that popular support for the death penalty at a given moment did not imply that such support would persist in the future. She referred to undisputed historical precedents where laws, policies and practices inconsistent with human rights standards had had the support of a majority of the people; but had eventually been abolished or banned. She urged all States that still retained the death penalty to introduce a moratorium on it as a first step. She also emphasized that States should go beyond simply ceasing executions. They should aim for a

suspension of capital punishment for all who might be, or had been, sentenced to it; prosecutors should no longer seek the death penalty and judges should not impose it. That could be done, for example, through a directive from the highest judicial body. She further highlighted the importance of the right to seek pardon or commutation. In that regard, she welcomed the recent presidential decision in Myanmar to commute all death sentences to a lesser punishment, and recent decisions by the Supreme Court of India to commute to life imprisonment the death sentences of several individuals and to introduce guidelines safeguarding the rights of people on death row. The High Commissioner hoped that those initiatives would lead to the full abolition of the death penalty in those countries. She also urged the Human Rights Council to continue discussing and advancing the universal abolition of the death penalty, and engaging States and other stakeholders in a dialogue on the matter. Finally, she called upon the Council to consider commissioning a comprehensive legal study to help facilitate the emergence of an international customary norm prohibiting the use of the death penalty under all circumstances.

IV. Contributions of the panellists

10. Mr. Ndong Ella introduced the high-level panel discussion. He noted that the Council had convened the panel recognizing the importance for States to hold debates on the question of the death penalty.

11. In his introductory remarks as moderator of the panel, Mr. Niemtchinow said that the death penalty was primarily a matter of human rights and was not a punishment comparable with any other punishment. The death penalty was a denial of the right to life and, therefore, was a violation of human rights. The high-level panel discussion was relevant and timely, as in a few months, during its sixty-ninth session, the General Assembly of the United Nations would discuss a draft resolution on renewing the call for a moratorium on the death penalty, with the aim of its universal abolition. The adoption by the General Assembly every two years of a resolution on a moratorium confirmed that the majority of Member States supported the establishment of a universal moratorium. Global awareness concerning the universal abolition of the death penalty was visible in all continents. He noted that the Government of France had launched a global campaign to abolish the death penalty.

12. Mr. Djenontin-Agossou recalled that every human being had an inherent right to life and no one should be deprived of that right. Benin had ratified the International Covenant on Civil and Political Rights, as well as other relevant instruments, such as those on the rights of the child and against torture; and its Constitution established that the human being was sacred. He recalled the international context relating to the death penalty and that, since 2007, the General Assembly had adopted a number of resolutions calling for a moratorium on the execution of death sentences. In November 2008, the African Commission on Human and Peoples' Rights had adopted a resolution in which it had recommended that States parties to the African Charter on Human and Peoples' Rights uphold the moratorium. He noted that, in 2012, Benin had co-sponsored and supported General Assembly resolution 67/176 on a moratorium on the use of the death penalty.

13. With regard to the abolition of the death penalty in Benin, Mr. Djenontin-Agossou explained that in 2004, with the approval of the President of the country and with the support of civil society organizations, the Human Rights Unit of the Ministry of Justice, Human Rights and Legislation had established an advisory body to advance the abolition of the death penalty. The Advisory Body had investigated various issues regarding the use of the death penalty. Subsequently, the Government of Benin had announced at various international forums that it would abolish the death penalty. For instance, during the universal periodic review by the Human Rights Council held in 2008, Benin had committed

itself to continuing its efforts to completely abolish the death penalty and to considering ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights. In August 2011, the National Assembly of Benin had voted to abolish the death penalty; and in July 2012, Benin had acceded to the Second Optional Protocol. In December 2012, the National Assembly had repealed the death penalty provisions contained in the Code of Criminal Procedure. Currently, the Assembly was carrying out a revision of the Penal Code to remove all the death penalty provisions.

14. Mr. Djenontin-Agossou also said that in July 2014 Benin would be organizing the first African conference on a universal moratorium on the use of the death penalty and its abolition. He invited States to work towards abolition, noting that the death penalty did not constitute an effective solution for eradicating criminality, was not compatible with the right to life and posed unacceptable risks of judicial error.

15. Ms. Khadija Rouissi said that there was growing consensus for the abolition of the death sentence in many States in the Middle East and North Africa. However, only five countries out of 19 in the region had a de facto moratorium, and the region had the highest level of executions per capita. In addition, a large number of death row prisoners in the region were facing torture and other inhuman and cruel punishment, even in countries that maintained de facto moratoriums on the use of the death penalty.

16. With regard to the situation in Morocco, Ms. Rouissi said that, while no execution had been carried out since 1993, judges continued to impose the death penalty. In 2005, the Equity and Reconciliation Commission had been established in Morocco in order to investigate past gross human rights violations. The Commission had recommended, inter alia, that the death penalty be abolished in Morocco. Subsequently, that recommendation had received the approval of the Head of State. A new Constitution, adopted in 2011, enshrined the right to life and gave an important place to human rights. Ms. Rouissi also informed the panel that a network of parliamentarians who were against the death penalty was putting forward legislative proposals towards abolition and would continue to work towards the adoption of the Second Optional Protocol to the International Covenant on Civil and Political Rights. That network was campaigning to support the forthcoming General Assembly resolution on a moratorium and to improve the conditions of death row prisoners. A similar network of parliamentarians had been established in Jordan. Such networks should be established in other parts of the region in order to advance the abolition of the death penalty. The death penalty was the most institutionalized attack on the right to life and abolition constituted a prelude to any serious penal reform.

17. Mr. Bloodsworth said that the capital punishment system of the United States of America was ineffective, wrong and did not work. He knew that from first-hand experience: he was the first person in the United States to have been exonerated from a capital conviction through DNA testing. He had spent 8 years, 10 months and 19 days in prison, including two years on death row, for a crime he had not committed. In 1984, he had been arrested for the murder of a young girl in the State of Maryland. Because of the shocking character of the crime, the police had been understandably eager to find the young girl's killer and ease the community's fear. When the police department had found two boys who had seen the suspect, the officers had drafted a composite sketch of the man they were looking for. Despite the fact that he did not fit any of the characteristics as described by the two boys, an anonymous caller had suggested his name to the police department. In a police line-up, he had been identified as the last man to be seen with the victim. Everybody in the State of Maryland had believed he was guilty. Five persons had positively identified him. Two juries had said they had the right man. In the end, that identification was proved wrong. Referring to his own experience, Mr. Bloodsworth emphasized that eyewitness misidentification was widely recognized as one of the leading causes of wrongful conviction in the United States. Since 1989, DNA evidence had been used to exonerate

over 300 individuals. Approximately 75 per cent of those cases had involved inaccurate or faulty eyewitness identification.

18. Mr. Bloodsworth discussed other faulty procedures that played a role in wrongful conviction, including the interview process, witness examination, the jury system and physical evidence in criminal cases. He described his ordeal at the Maryland State Penitentiary, where he had lived in a cell in which he could only take three steps from the back wall to the front door; and which was directly under the gas chamber where executions took place. Mr. Bloodsworth told of his efforts to have the death penalty abolished in the United States and to campaign for important reforms to the criminal justice system, such as the Innocence Protection Act of 2003, which included post-conviction DNA testing provisions and ensured the availability of federal funds to states for DNA testing of prisoners who claimed their innocence. In 2012 the State of Maryland had become the eighteenth state to repeal the death penalty in the United States. He emphasized that it was the message of innocence that had made that abolition possible.

19. Ms. Jahangir discussed the position with regard to the use of the death penalty in Asia. She informed the panel that Asia presented a challenge to the death penalty abolitionist movement. The vast majority of executions were carried out in Asia and thousands were under sentence of death there. In 2013, at least 10 countries in Asia had reportedly carried out executions. Because of the secrecy of the death penalty in several countries, the exact number of executions was difficult to obtain. A lack of transparency left the people in those countries without information and prevented debates around that important issue. She emphasized that, in many countries in the region, the death penalty was often imposed after a grossly unfair trial. Even when trials respected international standards of fairness, the risk of innocent people being executed could never be fully eliminated. That was especially worrying, as many criminal legal systems in retentionist countries in Asia were not strong enough to ensure justice and yet retained that irreversible punishment. She noted that crime rates might be reduced by the introduction of better training, human rights education, including for police officers and lawyers, measures to eradicate poverty and programmes to improve general educational attainment, among other measures. She stated that there was no convincing evidence that the death penalty deterred crimes more effectively than other punishments. She also expressed concern that a disproportionate number of individuals on death row in retentionist countries in Asia were from marginalized sections of society.

20. Ms. Jahangir discussed the situation of non-citizens, who were disproportionately affected by the use of the death penalty in the Asian region. Hundreds of migrant workers from supplying nations in Asia were facing the death penalty in other countries. That had led countries which still retained capital punishment, such as India, Indonesia, Pakistan and Sri Lanka, to work through diplomatic and other channels to ensure the release of their nationals abroad who were under sentences of death. With regard to positive developments in Asia, Ms. Jahangir said that some Asian countries, including Bhutan, Cambodia, Nepal, the Philippines and Timor-Leste, had abolished the death penalty for all crimes. Brunei Darussalam, the Lao People's Democratic Republic, Maldives, Mongolia, Myanmar, the Republic of Korea, Sri Lanka and Thailand had not carried out executions for several years. In Pakistan, the current administration continued to apply a de facto moratorium on the death penalty that had been in place since 2008, except for the execution of a soldier in 2012. She also said that some Asian countries had taken positive steps, including official announcements of a presidential pardon or commutation and court rulings that indicated a gradual reduction in the scope of capital punishment. Some States were currently studying the possibility of abolishing the death penalty. In October 2013, during its second universal periodic review, China had announced that it was reducing the application of the death penalty by taking a series of important measures, including reducing the number of capital crimes, strengthening the role of defence lawyers, ensuring that suspects in capital cases

were represented by a lawyer, and excluding the use of confessions extracted through torture. In Singapore, courts were currently provided with the discretion not to impose the death penalty for certain categories of offence, such as drug trafficking offences and some homicide offences. That had followed the adoption by the Parliament in November 2012 of legislative amendments abolishing the mandatory imposition of the death penalty under certain circumstances. Ms. Jahangir also emphasized that every country in Asia that still retained the death penalty would adopt its own particular path to end the practice. Leaders, parliaments, judges, civil society organizations, the media and academic institutions had to be convinced of the need for the abolition of capital punishment.

V. Summary of the interactive discussion

21. During the interactive discussion, representatives of the following countries and organizations spoke: Australia, Austria, Belgium, Brazil (on behalf of the Portuguese-speaking countries), China, the Council of Europe, the European Union, France, Indonesia, Ireland, Italy, Kuwait (on behalf of the Gulf Cooperation Council), Mexico, Mongolia, Morocco, Namibia, New Zealand, Rwanda, Saudi Arabia, Sierra Leone, Singapore (on behalf of a group of 26 countries), Slovenia, Spain, the Sudan and Switzerland (on behalf of 44 countries). Statements by the following delegations were not delivered owing to lack of time: Albania, Algeria, Belarus, Chile, Cuba, Germany, Iraq, Kyrgyzstan, Portugal, the Republic of Moldova and Turkey.

22. Representatives of the following non-governmental organizations also spoke: Amnesty International, Harm Reduction International (on behalf of Reprieve, Human Rights Watch and the World Coalition Against the Death Penalty), International Federation of Human Rights Leagues, International Organization for the Elimination of All Forms of Racial Discrimination, Penal Reform International and Verein Suedwind Entwicklungspolitik.

23. Delegates welcomed the convening and organization of the high-level panel discussion. They viewed the panel as a useful platform for discussing good practices and sharing experiences relating to the abolition of the death penalty and to the introduction of a moratorium on executions.

A. General remarks on the use of the death penalty

24. A large number of delegations expressed their opposition to the death penalty and firmly supported its universal abolition. In that regard, they welcomed the developments noted in the Secretary-General's most recent report on the question of the death penalty (A/HRC/24/18) suggesting that the trend towards abolition was continuing. Some delegations stated that there was a clear trend towards its elimination. They were convinced that the question of the death penalty was about human rights and that justice that killed was not justice. They further highlighted that the strong link between the death penalty and human rights was acknowledged even in the constitutions of some retentionist countries, which stated that no person should be deprived of the right to life except in execution of a sentence.

25. Some States emphasized that the death penalty violated the right to life, the basis of all rights, and that it undermined the right to dignity inherent to all human beings. Some expressed concerns that the imposition of the death penalty constituted torture, as recently stated by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and that it was an inhumane form of punishment, constituting a serious violation of human rights. It was pointed out that that was clearly the case for brutal

methods of execution, such as stoning and decapitation, which inflicted unbearable pain. More common execution techniques, such as electrocution or shooting, might well constitute inhuman or degrading treatment and therefore be in contravention of international law. It was also underlined that the margin of error in the application of the death penalty was too large.

26. Some delegations emphasized that the death penalty was not only morally wrong, but was also an ineffective deterrent. They also stated that there must not be any impunity for crimes, but that there was no clear evidence regarding the effectiveness of the death penalty in combating impunity. They observed that the death penalty had never been proved to be a more effective deterrent than other forms of punishment. Justice and fairness were never advanced by the taking of a human life. In that context, it was also observed that the leaders of several States which had recently abolished or introduced a moratorium on the death penalty had cited, among the reasons for their decision, the absence of credible evidence that the death penalty deterred crime. It was further emphasized that the application of the death penalty was irreversible and irreparable, and that a State did not need to take lives in order to defend itself.

27. Some delegations stated that the death penalty had no place in democratic societies, They stressed that building a society free from the death penalty should be at the core of all judicial actions, and that application of the death penalty did not repair the harm done to victims and their families. They also stated that the abolition of the death penalty contributed to the progressive strengthening of human rights around the world. Some delegations discussed how the abolition of the death penalty contributed to State-building efforts. For example, in Ireland, the moratorium on the use of the death penalty had remained in place until abolition in 1991, even in the face of grave threats to the State and the people; that refuted the claim that the death penalty was needed in the fight against terrorism. In Rwanda, the abolition of the death penalty had been a step forward in the reconciliation process.

28. A group of States, in a joint statement,[1] expressed the view that the simplistic approach of characterizing the death penalty as a human rights issue in the context of the right to life of the convicted prisoner was deeply flawed and controversial. The group considered that the death penalty was first and foremost an issue of the criminal justice system and an important deterring element vis-à-vis the most serious crimes. Some delegations stated that capital punishment was a sensitive issue since countries had different opinions because of varying cultural and intellectual frameworks and the absence of international agreement on the subject. A few retentionist States observed that the purpose of the use of the death penalty was not revenge, but to ensure retribution and provide justice to victims. Some stated that the retention of the death penalty was a prudent choice made in accordance with international law and the people's demand for justice. They also mentioned the existence of strict controls over the application of the death penalty.

B. Implementation of international human rights standards and safeguards

29. Several delegations emphasized that States that continued to apply the death penalty must guarantee the protection that was set out in international instruments, including the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child. In that regard, some delegations highlighted the fact that article 6, paragraph 2, of

[1] See A/HRC/25/G/16 for the full text of the joint statement.

the Covenant required that States that continued to apply the death penalty should impose that sentence only for the most serious crimes.

30. Several delegations expressed concern with regard to the imposition of the death penalty in violation of international human rights standards. In particular, they expressed concern with regard to: the application of the death penalty in an arbitrary manner and in secrecy; the mandatory nature of the death penalty in some States; the inhuman and degrading detention conditions of death row prisoners; the use of unregulated substances in the formulae of lethal injections; public executions; the increase in the number of executions in certain countries; the expansion of the range of categories of crime to which the death penalty could apply; the use of the death penalty against children, persons with disabilities and other vulnerable groups; the resumption of executions after decades of a de facto moratorium; and withdrawal from international safeguards aimed at preventing miscarriages of justice. Some delegations also highlighted the need to discuss the difficulties and other related issues regarding executions, including social and economic implications of such punishment. They urged States to acknowledge the negative impact on children of their parents being sentenced to death or executed.

31. Several delegations expressed concern that a number of countries continued to apply the death penalty at an alarming rate. For instance, it was noted that, since the beginning of 2014, 155 people, including several minors, had reportedly been executed in the Islamic Republic of Iran. However, only 84 of those executions had been officially confirmed. It was also noted that the Islamic Republic of Iran continued to apply the death penalty for crimes, including drug-related crimes and sexual offences, that did not meet the criteria of "most serious crimes". In Iraq, 170 people had reportedly been executed in 2013, making the country one of the top three executors in the world. The majority of those executions had reportedly been carried out under the pretext of fighting terrorism, on the basis of the 2005 anti-terrorism law, which provided capital punishment for a multitude of unclear crimes.

32. Several delegations expressed concern that some retentionist States had expanded the categories of crime for which the death penalty might, or in some cases must, apply, and that several States did not restrict the use of the death penalty to the most serious crimes. In particular, in some countries the majority of death sentences handed down and executions carried out were for drug-related offences. It was also emphasized that international aid and United Nations assistance for drug enforcement in those countries lent legitimacy to the use of the death penalty for drug-related offences. It had been demonstrated that, since 2008, international assistance had contributed to the arrest, prosecution and subsequent sentencing to death of named drug suspects; the United Nations agency concerned had been called upon to take responsibility for its actions, but no real changes had been noticed. It was further noted, however, that donors had begun taking notice and had reportedly removed funding from drug enforcement programmes in certain cases. It was recommended that much needed funding be redirected to other efforts in those countries, and that donors freeze all financial support pending an investigation into how funding had been spent and until after the establishment of clear mechanisms for risk assessment and accountability.

33. With regard to the detention conditions of death row prisoners, it was noted that, whereas they were entitled to the same basic treatment as other categories of prisoners, in reality their detention conditions were frequently worse. They usually experienced: restrictions or total bans on visits from and correspondence with lawyers and family members; small cell size; lack of proper food; extreme temperatures; lack of ventilation; cells infested with insects; inactivity and inadequate time outside cells; isolation for long and indeterminate periods; and violence from other prisoners and prison officials. It was also emphasized that some or all of those conditions could contribute to the "death row phenomenon" that had been found to constitute inhuman and degrading punishment and

which resulted from spending long periods of time in restrictive conditions while awaiting death. Such problems remained when States had put in place a moratorium on the death penalty or had abolished the death penalty, unless the sentences of those convicted prior to abolition had been commuted. It was also emphasized that detention conditions should be based on individual risk assessments, sentences handed down before abolition should be commuted.

C. Abolition processes: national experiences and lessons learned

34. Several delegations shared their national experiences and lessons learned regarding the abolition process. For instance, Namibia had abolished the death penalty in 1990. Article 6 of its Constitution provided: "The right to life shall be respected and protected. No executions shall take place in Namibia." That provision was non-derogable.

35. In Ireland, a de facto moratorium had been in place from 1954 until 1990. The movement towards abolition had coincided in large part with the conflict in Northern Ireland. The death penalty had been abolished in 1990. In 2001, a proposal to amend the Constitution of Ireland to prohibit the death penalty had been supported by 62 per cent of the votes cast.

36. Rwanda had abolished the death penalty in 2008, 14 years after the 1994 genocide that had claimed the lives of over one million people. It had by no means been an easy task: the pain and desire for justice felt by the families of genocide victims and survivors were understandable and could not be ignored. The Rwandan people had taken the view that the death penalty could never serve as an instrument of justice, even in the case of the most heinous crimes imaginable. It was emphasized that the abolition of the death penalty had proved to be a significant step forward in the process of reconciliation in Rwanda.

37. In France, after heated debates, abolition had been achieved in 1981 owing to the political courage of a few men. Three decades later, experience in France showed that the abolition of the death penalty had no bearing on crime rates and abolition had become part of the French heritage. The key lessons of the French experience were: the abolition process must be preceded by awareness-raising; key political figures must have the courage and determination to defend their ideas; and the focus should be on fundamental collective political gains.

38. In 1988, Kyrgyzstan had introduced a moratorium on executions. Since its independence, it had opted for the gradual elimination of the death penalty. The term of the moratorium was extended in 2005 until full abolition by legislation. Eventually, the death penalty was abolished under the Constitution of the Kyrgyz Republic in 2006.

39. Some delegations shared with the panel their ongoing efforts towards full abolition of the death penalty. For instance, in Mongolia, a moratorium on the death penalty had been declared by the President in 2010. That had been followed by accession to the Second Optional Protocol to the International Covenant on Civil and Political Rights. Mongolia was currently undertaking step-by-step measures to abolish the death penalty both in law and in practice by introducing amendments to existing legislation. The current draft law on crimes proposed life imprisonment as the harshest punishment, a penalty which was open for reconsideration after 20 years of imprisonment. Morocco had been a de facto abolitionist country and had engaged in a fruitful national dialogue on whether or not to maintain the death penalty in domestic legislation. Morocco had adopted a policy of transparency regarding the death penalty and was committed to continuing the debate on the issue.

40. Some retentionist countries discussed domestic processes for restricting the use of the death penalty. For instance, China had adopted a policy of gradual abolition of the death

penalty. In 2011, it had abolished the death penalty for 15 crimes; and the death penalty was not applied to (a) children who committed crimes below the age of 18, (b) pregnant women and (c) elderly people aged 75 years and above. In Indonesia, the issue of the death penalty had been the subject of a robust national debate among various groups. The issue had undergone a judicial review by the Constitutional Court in 2007. In line with article 6 of the International Covenant on Civil and Political Rights, Indonesia strived to ensure that strong safeguards were in place.

41. Some delegations highlighted the importance of the establishment of a moratorium on the use of the death penalty while national debates on abolition were ongoing. A moratorium on executions gave the authorities the opportunity to: review death penalty legislation; ensure that domestic law complied with international human rights law, especially regarding the duty to ensure a fair trial; review claims of wrongful conviction; engage in an informed debate with experts and the public; and realize that the death penalty was not a special deterrent to crime.

D. Importance of public debate, awareness and exchange of information

42. It was noted that the majority of retentionist countries justified the use of the death penalty on the basis of their domestic public opinion. In that context, supporting the remarks of several panellists, several delegations highlighted the fact that capital punishment had been abolished in their countries following debates and exchanges of ideas that had resulted in slow changes in mentalities. It was emphasized that, in the absence of objective information, the public might be reluctant to accept and support abolition efforts. It was therefore of paramount importance that countries that still applied the death penalty ensured that studies and statistics regarding its use were made publicly available, so that public discussion and evaluation of its use could be promoted and a moratorium established. The public should not be deprived of objective and transparent information on the issue and its effects on society.

43. Some delegations emphasized the need for continued education on and public awareness of the importance of the abolition of the death penalty. They highlighted the fact that, in abolitionist countries, there was a constant need to spell out why the death penalty ran contrary to the right to life and to human dignity. Vigilance was required, since some political parties even in abolitionist States had put the restoration of the death penalty on their programmes. Such developments clearly marked the need for long-term action against the death penalty and for efforts to transmit valuable experience, training and assistance to third countries in carrying out public debates and swaying public opinion.

44. Some delegations said that if the history of the abolition of the death penalty in their countries had taught them anything, it was that the path towards abolition was long and hard. The death penalty was not abolished or repealed overnight. Abolition became a reality only as a result of increasing public awareness and constant collective efforts. In that regard, the importance of informed debate and the fluid exchange of ideas was highlighted.

45. Some delegations pointed out that national debates on the abolition of the death penalty were currently under way in their countries. For example, there were ongoing active debates in Indonesia on the use of the death penalty. In Sierra Leone, which had had a moratorium since 1998, a regional conference had been organized early in 2014 to address the question of the death penalty. The current constitutional review process in Sierra Leone also provided an opportunity to debate the issue.

46. It was emphasized that there was a need to reach out to the judiciary to make sure it understood the true implications of sentencing decisions, and the lack of evidence that the death penalty had a deterrent effect in comparison with other non-lethal punishments.

E. Regional, multilateral and intergovernmental efforts to advance the abolition of the death penalty

47. Several delegations highlighted the importance of regional and multilateral organizations' efforts to advance the abolition of the death penalty, and expressed their readiness to enhance such international cooperation towards abolition. In particular, it was emphasized that countries in the same region had closer historical, social and cultural ties. For that reason, initiatives taken at the regional and multilateral levels were more likely to be accepted and understood by countries in the same geographical area. Delegates provided examples of such regional and multilateral efforts.

48. It was recalled that the European Union held a strong and principled position against the death penalty. Article 2 of the Charter of Fundamental Rights of the European Union provided that no one should be condemned to the death penalty, or executed. The abolition of the death penalty was also a main objective of the European Union external human rights policy, as outlined in the European Guidelines on the Death Penalty, adopted in 1998 and revised in April 2013. The EU commitments for the universal abolition of the death penalty included: targeted campaigns on the death penalty and intensive engagement with retentionist countries; and active contribution, together with broad interregional groups of States, to the adoption by the United Nations General Assembly of resolutions on a moratorium on the use of the death penalty. Since 2007, the European Union had also provided financial support to civil society organizations for actions and projects aimed at promoting restrictions in the use of the death penalty, and its abolition, or the establishment of a moratorium. The European Union had also adopted rules prohibiting trade in goods used to carry out executions, as well as technical assistance related to such goods.

49. It was noted that the Council of Europe had made abolition of the death penalty a prerequisite for membership. As a result, in the previous 16 years, no death sentences had been carried out in its 47 member States. Instruments adopted by the Council on the abolition of the death penalty included Protocol No. 6 to the European Convention on Human Rights, which prohibited the death penalty in times of peace, and Protocol No. 13, which prohibited it in all circumstances. Furthermore, in 2013, a joint call for the abolition of the death penalty had been launched in Strasbourg, France, by 42 member States[2] of the Council on the occasion of the World Day against the Death Penalty, in which they reiterated that the abolition of the death penalty in many African, American and Asian States exemplified the universal character of that fight. It also demonstrated the need for a strong political signal, as well as for the participation of the whole of society in those efforts. Furthermore, some delegations noted that the European Court of Human Rights had acted as a catalyst for that regional trend. Recently, the Court had ruled that exposure to the fear of execution was as much a violation of the European Convention on Human Rights as execution itself.

50. It was stated that the Community of Portuguese-Speaking Countries was firmly convinced that the abolition of the death penalty decisively contributed to the reinforcement of security and the continuous development and consolidation of human rights. In 2003, the Council of Ministers of the Community had adopted a resolution on human rights and the abolition of the death penalty which expressed the commitment of the Community and its

[2] Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Montenegro, the Netherlands, Norway, Portugal, the Republic of Moldova, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Turkey, Ukraine and the United Kingdom of Great Britain and Northern Ireland (later joined by two more States).

members to deploying every effort towards the universal abolition of the death penalty and other cruel, inhuman or degrading treatment or punishment. That commitment had been renewed in 2013 through the adoption of a resolution on the promotion and protection of human rights in the Community.

51. It was highlighted that, since the adoption of resolution 42 by the African Commission on Human and Peoples' Rights in 1999, a number of African States had continued to advocate a moratorium on the death penalty through their support for the Commission's Working Group on Death Penalty and Extra-Judicial, Summary or Arbitrary Killings in Africa and General Assembly resolution 67/176 on a moratorium on the use of the death penalty, and through calls for ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights. In that context, discussions had begun towards the development of an additional protocol to the African Charter on Human and Peoples' Rights on the abolition of the death penalty in Africa.

52. The importance of the International Commission against the Death Penalty was also highlighted. The establishment of the Commission in 2010 had been a multilateral initiative led by Spain. Its cross-regional composition and the international prestige of its members were of great value to the campaign for worldwide abolition. In particular, members could speak directly to the authorities of States that were facing challenges in the abolition of the death penalty. The Commission was currently supported by 18 countries representing all regions of the world.

F. Ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights

53. Several delegations stressed the importance of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, and called for its ratification. As of March 2014, the Protocol had been ratified by 78 States. It was emphasized that increased ratification of or accession to that Protocol was needed to advance the universal abolition of the death penalty.

VI. Conclusion

54. **In their concluding remarks, the panellists emphasized that the international community had a responsibility to move universal abolition of the death penalty forward. Discussions on the death penalty should continue at both the national and international levels. Such discussions should include voices from all parts of society, including the innocent people who had suffered wrongful convictions. Experiences of national, regional and international abolition efforts should also be shared.**

55. **States should intensify the campaign to sensitize all actors at every level, including the policy and grass-roots levels, so that more countries would support universal abolition. In that regard, commissioning research and studies on the prohibition of the use of the death penalty as a customary norm and on the human rights impact of the use of the death penalty could be considered. More transparent debates between States were also needed, in close cooperation with civil society and other actors, including parliamentarians.**

56. **States that had not yet abolished the death penalty should introduce moratoriums on executions with the aim of abolishing them. Those States which still continued to implement the death penalty must ensure the protection of the human rights of those facing the death penalty, pursuant to the relevant international norms and standards.**

57. **Supporting the views of States, regional organizations and non-governmental organizations, the panellists recommended that States and all other stakeholders must redouble their efforts to secure an increased number of ratifications of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, which was the only international instrument that prohibited executions and provided an essential legal framework for securing the worldwide abolition of the death penalty.**